

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

JAMES D. SUDBERRY, R.,	:	Case No. 1:18-cv-246
	:	
Plaintiff,	:	Judge Timothy S. Black
	:	
vs.	:	Magistrate Judge Stephanie K.
	:	Bowman
WARDEN, LEBANON	:	
CORRECTIONAL INSTITUTION, <i>et.</i>	:	
<i>al.</i> ,	:	
	:	
Defendants.	:	

**DECISION AND ENTRY  
ADOPTING THE REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE (Doc. 6) AND  
TERMINATING THIS CASE IN THIS COURT**

This case is before the Court pursuant to the Order of General Reference to United States Magistrate Judge Stephanie K. Bowman. Pursuant to such reference, the Magistrate Judge reviewed the pleadings filed with this Court and, on November 30, 2020, submitted a Report and Recommendation, recommending that this case be dismissed for Plaintiff's failure to pay the full filing fee as ordered by the Court. (Doc. 6). Plaintiff filed objections.<sup>1</sup> (Doc. 7).

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<sup>1</sup> Plaintiff's objections are not well-taken. (Doc. 7). Plaintiff argues that the Court should allow him to proceed *in forma pauperis*, because he cannot pay the filing fee, and because "there is much merit to [his] claim." (*Id.* at 2–3). But, as the Court has already explained in its Order dated October 16, 2020, Plaintiff has violated 28 U.S.C. § 1915(g)'s three strikes rule, and Plaintiff has failed to show that he qualifies for 28 U.S.C. § 1915(g)'s "imminent danger" exception. (Doc. 5 at 1–2); *see generally Bloodworth v. Mohr*, No. 1:16-cv-1049, 2016 WL 6829647 (S.D. Ohio Nov. 21, 2016). Plaintiff's objections do not remedy these deficiencies. (*See* Doc. 7 at 1–3). And, as such, Plaintiff is not entitled to proceed *in forma pauperis*. Plaintiff's objections are **overruled**.

As required by 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), the Court has reviewed the comprehensive findings of the Magistrate Judge and considered *de novo* all of the filings in this matter. Upon consideration of the foregoing, the Court finds that the Report and Recommendation should be and is hereby adopted in its entirety.

Accordingly, for the reasons stated above:

1. The Report and Recommendation (Doc. 6) is **ADOPTED**.
2. Plaintiff's objections (Doc. 7) are **OVERRULED**.
3. This case is **DISMISSED** for Plaintiff's failure to pay the full filing fee as ordered by the Court.
4. Plaintiff is **ASSESSED** the full filing fee of \$400.00.
5. The Clerk of Court is **DIRECTED** to mail a copy of this Order adopting the Report and Recommendation, along with the attached instructions, to the Cashier of the prison at which Plaintiff is confined, and the Cashier is directed as follows:

The prison's Cashier shall deduct, and forward to the Clerk of Court, 20% of the preceding month's income credited to Plaintiff's account each time the amount in the account exceeds \$10.00 until the full fee has been paid.<sup>2</sup>

6. The Court certifies that, pursuant to 28 U.S.C. § 1915(a)(3), an appeal of this Order would not be taken in good faith and therefore **DENIES** Plaintiff leave to appeal *in forma pauperis*.
7. The Clerk of Court shall enter judgment accordingly, whereupon this case is **TERMINATED** from the docket of this Court.

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<sup>2</sup> The prison cashier's office shall not send payments aggregating more than the amount of the full fee.

**IT IS SO ORDERED.**

Date: 12/23/2020

s/Timothy S. Black  
Timothy S. Black  
United States District Judge

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

**INSTRUCTIONS FOR PAYMENT OF PRISONER FILING FEE**

The prisoner shown as the Plaintiff on the attached Order owes the Court a fee.

Pursuant to 28 U.S.C. § 1915 and *McGore v. Wrigglesworth*, 114 F.3d 601 (6th Cir.

1997), the fee is to be paid as follows:

The prison cashier shall forward to the Clerk of Court located in Cincinnati, Ohio monthly payments of twenty percent (20%) of the preceding month's income credited to the prisoner's account each time the amount in the account exceeds ten dollars (\$10.00) until the full fee of four hundred dollars (\$400.00) has been paid to the Clerk of the Court. Payments should be forwarded to the address below.

If the prisoner has filed more than one case, he is required to pay a fee in each case. The prison cashier's office shall make the monthly calculations and payments for each case in which it receives an order granting *in forma pauperis* status or otherwise ordering the collection of the full filing fee.

***The prisoner's name and case number must be noted on each remittance.***

Checks are to be made payable to: **Clerk, U.S. District Court**

Checks are to be sent to: **Prisoner Accounts Receivable  
103 Potter Stewart United States Courthouse  
100 East 5th Street  
Cincinnati, Ohio 45202**